IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7046 OF 2004

Khimjibhai Keshavji Patel, .. Petitioner

Vs

Jaswant Kumar Hassanand Bhatia & ors. Respondents

Mr Rajiv Patil, for the petitioner.

Mr P.D.gharge, for respondent no.1.

Mr Uday Warunjikar, for respondent no.3.

CORAM : D.B.BHOSALE,J.

DATE : 4th November, 2004.

PC:

1. Heard the learned counsel for the parties.

2. The petitioner has challenged the order dated 22.7.2004 by which the warrant of possession was issued in respect of shop no.16 in dispute in the suit. I am informed that the warrant of possession has already been executed and respondent no.3 has taken possession thereof. In view thereof, respondent no.3 has filed the undertaking stating that he will not create third party interest nor will part with possession of shop no.16 and that he will hand over vacant possession of the suit property to the decree holder within a period of 30 days from the date of decree subject to his right of appeal. Similarly respondent no.1 - Builder has also filed

an undertaking stating that shop no. 6 which, according to him was allotted to respondent no.3, is still vacant and he will keep it vacant till the disposal of the suit. The undertakings given by respondent no.3 and respondent no.1 are taken on record and marked "X-I" and "X-II" for identification. The undertakings are accepted. Keeping that in view, in my opinion, I need not examine the merits of the case and the proper course would be to dispose of this petition with directions to the trial Court to dispose of the suit within timeframe. Hence, the following order.

(i) The trial Court shall dispose of Spl.Civil Suit No.27 of 2004 as expeditiously as possible and preferably within a period of six months from today.

(ii) The petitioner to communicate this order to the learned Judge within four weeks from today.

(iii) The trial Court will decide the suit uninfluenced by the observations made in the orders passed at interlocutory stage. The writ petition is disposed of.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)